

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,  
HYDERABAD.**

Criminal Bail Application No.S-1261 of 2023

Applicant : Ghulam Rasool through Mr. Mian Taj Muhammad Keerio, Advocate.

Complainant : Gul Son of Karim Bux, through Mr. Shoukat Ali Kaka, Advocate.

Respondent : The State through Mr. Imran Ahmed Abbasi, Assistant Prosecutor General, Sindh.

Date of hearing : **11.01.2024**

Date of Order : **11.01.2024**

**O R D E R**

**AMJAD ALI SAHITO, J:-** Through instant bail application, the above named applicant/accused seeks pre-arrest bail in Crime No.78 of 2023, for offence under sections 382, 458, 34 P.P.C, registered at P.S. Jhol, after his bail plea was declined by the learned Additional Sessions Judge-II, Sanghar, vide his order dated 14.11.2023.

2. The details and particulars of the F.I.R. are already available in the bail application and F.I.R, same could be gathered from the copy of F.I.R. attached with such application, hence needs not to reproduce the same hereunder.

3. Learned counsel for the applicant has contended that the applicant / accused is innocent and has falsely been implicated in this case; that there was no source of light to identify the applicant / accused; that the recovery of motorcycle has been effected from the co-accused, as such, the applicant / accused is no more required for further investigation. He next submits that the offence with which the applicant stands charged does not fall within the prohibitory clause of Section 497 Cr.P.C. He lastly prayed for confirmation of bail.

4. On the other hand, learned Asst. P.G along with Mr. Shoukat Ali Kaka, Advocate, who has filed Vakalatnama on behalf of complainant, submits that the applicant/accused is habitual offender and previously involved in five (05) other similar cases, as such, he does not deserve extra ordinary relief of pre-arrest bail. He lastly prayed for dismissal of bail.

5. I have heard the parties present in Court, and have gone through the available record.

6. The case of the prosecution is that the son of the complainant who is working in Pakistan Army purchased one 125 Motorcycle and on the night of the incident the accused persons duly armed with deadly weapon entered into the house of the complainant in order to rob the motorcycle and the complainant has identified all the accused persons on the light of bulb wherein he has stated that the present applicant/accused along with co-accused by the show of pistol robbed the motorcycle along with other articles. The prosecution witnesses also support the version of the complainant in their 161 Cr.P.C. statements. Learned A.P.G also submits that the applicant along with co-accused have involved in other similar cases as such they are habitual offenders. Furthermore, no ill-will or malafide is alleged against the complainant party by the applicant even otherwise he has shown in F.I.R with specific role. In this regard, I am fortified with the case law of Hon'ble Supreme Court of Pakistan [2019 S C M R 1129] wherein the Hon'ble Supreme Court of Pakistan has held as under:

*“Grant of pre-arrest bail is an extra ordinary remedy in criminal jurisdiction; it is diversion of usual course of law, arrest in cognizable cases; a protection to the innocent being hounded on trump up charges through abuse of process of law, therefore a petitioner seeking judicial protection is required to reasonably demonstrate that intended arrest is calculated to humiliate him with taints of mala fide; it is not a substitute for post arrest bail in every run of the mill criminal case as it seriously hampers the course of investigation..... the principles of judicial protection are being faithfully adhered to till date, therefore, grant of pre-arrest bail essentially requires considerations of malafide, ulterior motive or abuse of process of law.”*

7. At bail stage, only tentative assessment is to be made. In view of above discussion, there is sufficient material available on record to connect the applicant/accused in the commission of offence and so also he has also failed to make out a good case for confirmation of bail. Consequently, the bail application is dismissed and the interim pre-arrest bail earlier granted to the applicant/accused vide order dated 17.11.2023 is hereby re-called.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned Trial Court while deciding the case of the applicant on merits.

**JUDGE**